

Uttar Pradesh Civil Laws (Amendment) Act, 1972

37 of 1972

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Act to amend the Provincial Small Cause-Courts Act, 1887, the Bengal, Agra and Assam Civil Courts Act, 1887, and the Code of Civil Procedure, 1908, in their application to Uttar Pradesh and the Uttar Pradesh Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972. It is hereby enacted in the Twenty-third Year of the Republic of India as follows : 1. As passed by the Uttar Pradesh Legislature and assented to by the President on September 12, 1972. Vide Notification No. 3280 (2) XVII--V-100-1972, dated September 12, 1972 and published in U.P. Gazette, Extraordinary, dated September 16, 1972 and it came into force vide Notification No 411 (i) A-11-580-72, dated 20th Sept., 1972.

1. Short Title, Extent And Commencement :-

2. Amendment Of Section 15 Of Act Ix Of 1887 :-

In Section 15 of the Provincial Small Cause Courts Act, 1887, as amended in its application to Uttar Pradesh, hereinafter referred to as the principal Act, in sub-section (3), the following proviso shall be inserted, namely: "Provided that in relation to suits by the lessor for the eviction of a lessee from a building after the determination of his lease, or for recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease, or of compensation for the use and occupation thereof after such

determination of lease, the reference in this sub-section to two thousand rupees shall be construed as a reference to five thousand rupees. Explanation.--For the purposes of this sub-section, the expression building has the same meaning as in Art. (4) in the Second Schedule."

3. Amendment Of Section 25 Of Act Ix Of 1887 :-

In Section 25 of the principal Act the following proviso thereto shall be inserted, namely : "Provided that in relation to any case decided by a District Judge or Additional District Judge exercising the jurisdiction of Judge of Small Causes, the power of revision under this section shall vest in the High Court."

4. Amendment Of The Second Schedule To Act Ix Of 1887 :-

In the Second Schedule to the principal Act, for Art. (4) the following Article shall be substitute, namely : "(4) a suit for the possession of immovable property or for the recovery of an interest in such property, but not including a suit by a lessor for the eviction of a lessee from a building after the determination of his lease, and for the recovery from him of compensation for the use and occupation of that building after such determination of lease. Explanation.--For the purposes of this Article, the expression buildings, means a residential or non-residential roofed structure, and includes any land (including any garden), garages and out-houses, appurtenant to such building, and also includes any fittings and fixtures affixed to the building for the more beneficial enjoyment thereof."

5. Amendment Of Section 26 Of Act Xii Of 1887 :-

Section 25 of the Bengal, Agra and Assam Civil Courts Act, 1887, as amend in its application to Uttar Pradesh shall be re-numbered as sub-section (1) thereof, and-- (i) in sub-section (1), as so re-numbered, for the existing proviso, the following proviso shall be substitute, namely : "Provided that in relation to suits of the nature referred to in the proviso to subsection (3) of Section 15 of the said Act the references in this sub-section to one thousand rupees and five hundred rupees shall be construed respectively as references to five thousand rupees and one thousand rupees." (ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely : "(2) The State Government may by notification in the official Gazette, confer upon any District Judge or Additional District Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887,

for the trial of all suits (irrespective of their value), by the lessor for the eviction of a lessee from a building after the determination of his lease, or for the recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease of compensation for the use and occupation thereof after such determination of lease, and may withdraw any jurisdiction so conferred. Explanation--For the purposes of this sub-section, the expression building has same meaning as in Art. (4) in the Second Schedule to the said Act. (3) The State Government may by notification in the official Gazette delegate to the High Court its powers under this section."

6. Amendment Of Section 115 Of Act V Of 1908 :-

In Section 115 of the Code of Civil Procedure, 1908, as amended in its application to Uttar Pradesh, hereinafter referred to as the said Code-- (i) for the words "the High Court or District Court", where they first occur, the words "the High Court in cases arising out of original suits of the value of twenty thousand rupees and above, and the District Court in any other case" shall be substituted and after the words "High Court or District Court" where they occur the second time, the comma and words "as the case may be", shall be inserted; (ii) the proviso shall be omitted.

7. Insertion Of New Rule In Order Xv, Schedule I Of Act V Of 1908 :-

In the First Schedule to the said Code, in Order XV, after Rule 4, the following rule shall be inserted, namely : "(5) Striking off defence on non-deposit of admitted rent, etc.-- In any suit by a lessor for the eviction of lessee from any immovable property after the determination of his lease, and for the recovery from him of rent in respect of the period of occupation thereof during the continuance of the lease, or of compensation for the use of occupation thereof, whether instituted before or after the commencement of the Uttar Pradesh Civil Laws (Amendment) Act, 1972, the defendant shall, at or before the first hearing of the suit (or in the case of a suit instituted before the commencement of the said Act, the first hearing after such commencement) deposit the entire amount of rent, or compensation for use and occupation, admitted by him to be due, and thereafter throughout the continuance of the suit, deposit regularly the amount of monthly rent, or compensation for use and occupation, due at the rate admitted by him, and in the event of any default in this regard, the Court may, unless after considering any representation made by

him in that behalf it allows him further time on security being furnished for the amount, refuse to entertain any defence or, as the case may be, strike-off his defence. (2) The provisions of this rule are in addition to and not in derogation of anything contained in Rule 10 of Order XXXIX".

8. Amendment Of U.P. Act Xiii Of 1972 :-

In the Uttar Pradesh Buildings (Regulation of Letting, Rent and Eviction) Act, 1972-- (i) in Section 3, in Clause (a), for the words "his heirs", the following shall be substituted and be deemed always to have been substituted, namely-- "(1) In the case of residential building, such only of his heirs as normally resided with him in the building at the time of his death; (2) in the case of a non-residential building, his heirs"; (ii) in Section 20-- (a) in sub-section (1), the words, letters, brackets and figures "or in clause (r) of sub-section (2) of Section 43" shall be omitted; (b) sub-sections (3) and (6) shall be omitted; (iii) in Section 34, in sub-section (8), for the words "shall follow such procedure as may be prescribed" the words "shall follow such procedure, principles of proof, rules of limitation and guiding principles as may be prescribed" shall be substituted and be deemed always to have been substituted; (iv) in Section 39, the Explanation thereto shall be omitted and be deemed always to have been omitted; (v) in Section 43, in sub-section (2)-- (a) in Clause (d), at the end, the words "and subject thereto, such proceedings shall be continued and concluded as if this Act had not been passed" shall be inserted and be deemed always to have been inserted; (b) in Clause (o) , at the end, the words "and its decision shall be final" shall be inserted and be deemed always to have been inserted; (c) in Clause (p), for the words "shall stand transferred to the District Judge and his decision shall be final," the words "shall be disposed of by the State Government and its decision shall be final" shall be substituted and be deemed always to have been substituted; (d) in Clause (r), the portion beginning with the words "and likewise" and ending with the words "after the commencement of this Act" shall be omitted; (e) after Clause (r), the following clause shall be inserted, namely : "(rr) where any permission referred to in section 3 of the old Act has been obtained on any ground specified in sub-section (1) or sub-section (2) of section 21, and has become final, either before the commencement of this Act, or in accordance with the provisions of this sub-section, after the commencement of this Act, and a suit for the eviction of the tenant has not been instituted, the landlord

may apply to the prescribed authority for his eviction under Section 21, and thereupon the prescribed authority shall order the eviction of the tenant from the building under tenancy, and it shall not be necessary for the prescribed authority to satisfy itself afresh as to the existence of any ground as aforesaid, and such order shall be final and shall not be open to appeal under section 22."